

(B) $\frac{1}{12}$ times the number of months during the fiscal year for which the State received contingency funds.

(2) Subtract the State's proportionate remittance (as reported to the State by ACF) for the overall adjustment of the Contingency Fund for that fiscal year required by section 403(b)(6)(C) of the Act.

§ 264.74 How will we determine the Contingency Fund MOE level for the annual reconciliation?

(a)(1) The Contingency Fund MOE level includes the State's share of expenditures for AFDC benefit payments, administration, and FAMIS; EA; and the JOBS program for FY 1994.

(2) We will use the same data sources and date, i.e., April 28, 1995, that we used to determine the basic MOE levels for FY 1994. We will exclude the State's share of expenditures from the former IV-A child care programs (AFDC/JOBS, Transitional and At-Risk child care) in the calculation.

(b) We will reduce a State's Contingency Fund MOE level by the same percentage that we reduce the basic MOE level for any fiscal year in which we reduce the State's annual SFAG allocation to provide funding to Tribal grantees operating a Tribal TANF program.

§ 264.75 For the annual reconciliation, what are qualifying State expenditures?

(a) Qualifying State expenditures are expenditures of State funds made in the State TANF program, with respect to eligible families, for the following:

(1) Cash assistance, including assigned child support collected by the State, distributed to the family, and disregarded in determining eligibility for, and amount of the TANF assistance payment;

(2) Educational activities designed to increase self-sufficiency, job training, and work, excluding any expenditure for public education in the State except expenditures involving the provision of services or assistance to an eligible family that are not generally available to persons who are not members of an eligible family;

(3) Any other services allowable under section 404(a)(1) of the Act and

consistent with the goals at § 260.20 of this chapter; and

(4) Administrative costs in connection with the provision of the benefits and services listed in paragraphs (a)(1) through (a)(3) of this section, but only to the extent that such costs are consistent with the 15-percent limitation at § 263.2(a)(5) of this chapter.

(b) Qualifying State expenditures do not include:

- (1) Child care expenditures; and
- (2) Expenditures made under separate State programs.

§ 264.76 What action will we take if a State fails to remit funds after failing to meet its required Contingency Fund MOE level?

(a) If, for a fiscal year in which it receives contingency funds, a State fails to meet its required Contingency Fund MOE level, we will penalize the State by reducing the SFAG payable for the next fiscal year by the amount of contingency funds not remitted.

(b) A State may appeal this decision, as provided in § 262.7 of this chapter.

(c) The reasonable cause exceptions and corrective compliance regulations at §§ 262.5 and 262.6 of this chapter do not apply to this penalty.

§ 264.77 How will we determine if a State met its Contingency Fund expenditure requirements?

(a) States receiving contingency funds for a fiscal year must complete the quarterly TANF Financial Report. As part of the fourth quarter's report, a State must complete its annual reconciliation.

(b) The TANF Financial Report and State reporting on expenditures are subject to our review.

Subpart C—What Rules Pertain Specifically to the Spending Levels of the Territories?

§ 264.80 If a Territory receives Matching Grant funds, what funds must it expend?

(a) If a Territory receives Matching Grant funds under section 1108(b) of the Act, it must:

- (1) Contribute 25 percent of the expenditures funded under the Matching

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Grant for title IV-A or title IV-E expenditures;

(2) Expend 100 percent of the amount of historic expenditures for FY 1995 for the AFDC program (including administrative costs and FAMIS), the EA program, and the JOBS program; and

(3) Expend 100 percent of the amount of the Family Assistance Grant annual allocation using Federal TANF, title IV-E funds and/or Territory-only funds, without regard to any penalties applied in accordance with section 409 of the Act.

(b) Territories may not use the same Territorial expenditures to satisfy the requirements of paragraphs (a)(1), (a)(2) and (a)(3) of this section.

§ 264.81 What expenditures qualify for Territories to meet the Matching Grant MOE requirement?

To meet the Matching Grant MOE requirements, Territories may count:

(a) Territorial expenditures made in accordance with §§ 263.2, 263.3, 263.4, and 263.6 of this chapter that are commingled with Federal TANF funds or made under a segregated TANF program; and

(b) Territorial expenditures made pursuant to the regulations at 45 CFR parts 1355 and 1356 for the Foster Care and Adoption Assistance programs and section 477 of the Act for the Independent Living program.

§ 264.82 What expenditures qualify for meeting the Matching Grant FAG amount requirement?

To meet the Matching Grant FAG amount requirement, Territories may count:

(a) Expenditures made with Federal TANF funds pursuant to § 263.11 of this chapter;

(b) Expenditures made in accordance with §§ 263.2, 263.3, 263.4, and 263.6 of this chapter that are commingled with Federal TANF funds or made under a segregated TANF program;

(c) Amounts transferred from TANF funds pursuant to section 404(d) of the Act; and

(d) The Federal and Territorial shares of expenditures made pursuant to the regulations at 45 CFR parts 1355 and 1356 for the Foster Care and Adoption Assistance programs and section 477 of the Act for the Independent Living program.

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§ 264.83 How will we know if a Territory failed to meet the Matching Grant funding requirements at § 264.80?

We will require the Territories to report the expenditures required by § 264.80(a)(2) and (a)(3) on the quarterly Territorial Financial Report.

§ 264.84 What will we do if a Territory fails to meet the Matching Grant funding requirements at § 264.80?

If a Territory does not meet the requirements at either or both of § 264.80(a)(2) and (a)(3), we will disallow all Matching Grant funds received for the fiscal year.

§ 264.85 What rights of appeal are available to the Territories?

The Territories may appeal our decisions to the Departmental Appeals Board in accordance with our regulations at part 16 of this title if we decide to take disallowances under section 1108(b) of the Act.

PART 265—DATA COLLECTION AND REPORTING REQUIREMENTS

Sec.

265.1 What does this part cover?

265.2 What definitions apply to this part?

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265.8 Under what circumstances will we take action to impose a reporting penalty for failure to submit quarterly and annual reports?

265.9 What information must the State file annually?

265.10 When is the annual report due?

AUTHORITY: 42 U.S.C. 603, 605, 607, 609, 611, and 613.

SOURCE: 64 FR 17900, Apr. 12, 1999, unless otherwise noted.

§ 265.1 What does this part cover?

(a) This part explains how we will collect the information required by section 411(a) of the Act (data collection and reporting); the information required to implement section 407 of the